The Regular Meeting of the
Brian Head Town Council
56 N. Hwy. 143 – Brian Head, UT 84719
Via Zoom Meeting ID# 862 8863 6680
TUESDAY, NOVEMBER 10, 2020 @ 1:00 PM

Roll Call.

Members Present: Mayor Clayton Calloway, Council Member Larry Freeberg, Council Member Lynn Mulder, Council Member Shaun Kelly, Council Member Kelly Marshall (via Zoom Meetings 1:20 pm).

Staff Present: Bret Howser, Town Manager; Nancy Leigh, Town Clerk; Chief Dan Benson, Public Safety Director; Aldo Biasi, Public Works Director; Wendy Dowland, Public Works.

A. CALL TO ORDER

Mayor Calloway called the regular meeting of the Brian Head Town Council to order at 1:00 pm for November 10, 2020.

B. PLEDGE ALLEGIANCE

Mayor Calloway led the Council and others in the Pledge of Allegiance.

C. DISCLOSURES

There were no conflicts of interest with today's agenda items. Mayor Calloway stated that the disclosure statements are on file at the Town Clerk's office and are available for public inspection during normal business hours.

D. APPROVAL OF THE MINUTES:

October 27, 2020, Town Council Meeting

Motion: Council Member Freeberg moved to approve the October 27, 2020, Town Council minutes with changes. Council Member Mulder seconded the motion.

Action: **Motion carried 4-0-0 (summary: Yes = 4 Vote: Yes:** Council Member Mulder, Council Member Freeberg, Council Member Kelly, Mayor Calloway. **Absent:** Council Member Marshall).

E. REPORTS / PUBLIC INPUT ON NON-AGENDA ITEMS. Public input is limited to three (3) minutes.

Nancy Leigh, Town Clerk, reminded the Council to turn in their Open Meeting Training Certificates.

Mayor Calloway

1. Voiced his support of Governor Herbert's recent mask order to fight the coronavirus.
2. Spoke with County Commissioners about improving Aspen Drive to mitigate the dust problem.
3. Inquired if Aldo knew about an upcoming UDOT sign project along Highway 143. Aldo responded he was unaware of the project.

4. Requested the number of ballots that were cast during the November General Election and the return rate for the Election for Brian Head. Nancy reported she will forward that information to the Council.

Council Member Kelly

1. Was impressed with the recent change to the flagpole light at the Public Safety Building.
2. Would like the remind the audience that with Zoom Meetings, those speaking will need to be close to a mic. For those listening on Zoom, it is difficult to hear if that person speaking is not close to a mic.

Bret Howser, Town Manager

1. Submitted his Administration Department report with the Council packets. If the Council has any questions, please let him know.
2. Reminded the Council the Town Hall will be closed in observance of Veteran's Holiday tomorrow. Bret reported he may be working at the Town Hall tomorrow.
3. Mayor Calloway asked Bret to expand on his report regarding the banners. Bret responded the banners are impressions with social media and if it turned up in someone's feed and they interact with it, it would have a bounce rate on the other side and it can be measured. Bret reported Mark gives a report to the Tourism Bureau annually and can ask if he can do a presentation for the Council on Zoom.

Aldo Biasi, Public Works Director

1. Reported on the snow removal shifts that took place over the weekend.
2. The walking trail will be open shortly.
3. Working with Brian Head Resort on their demand for water for snowmaking.
4. Mayor Calloway inquired if they are in the final phase of the chlorination project? Aldo responded they are currently waiting on some parts for the Crystal Mountain Well, otherwise, the Town is chlorinated without the Crystal Mountain Well.

Dan Benson, Public Safety Director, reported the State chipping crew has come through Brian Head and they may be coming back since there are more chipping piles to complete.

Shane Williamson, Town Treasurer,

1. Revenue is up due to the number of people in Town, which is good for the local economy.
2. The annual audit should be completed by the end of the month and staff plans to have the audit presented during the December Council meeting**.**

Burke Wilkerson & Marilyn, Brian Head Resort,

1. The resort will be opening on November 20, 2020. There will be a mask mandate in place for the 2020-21 ski season.
2. Would like to discuss when the town shuttles will begin their services for the winter season.
3. The pumps for snowmaking are up and running. Aldo reported the Crystal Mountain Well is pumping about 100 gpm, but the Town is supplying the resort with water from the other tanks for snowmaking.

Don Cape, 349 Spruce Street

1. Thanked the Town for trying to mitigate the dust on the roads along with the chipping project.
2. Noticed that when the Town was locating the sewer manholes along Spruce Street with the first green flag that was on the north side of Spruce, it is in the middle of the snowmobile trail.
3. Inquired if the Council received his email regarding a packet of information regarding a conditional use permit (CUP) being proposed to the Planning Commission (see attached). Mr. Cape stated he has concerns regarding the CUP for a snow removal and water transport business located within a single-family residential zone. Mr. Cape reported he is representing his neighbors and wanted the Council to get involved and

review the proposal and requested the Town put a pause on all conditional use permits for snow removal services in single-family residential zones until a committee could be established and review the CUP thoroughly. Mr. Cape gave a brief history of his background in land development and explained he would like to work with the Town. Mr. Cape encouraged the Council to engage with the Planning Commission in placing a moratorium on CUP's and to review the two lots that are not appropriate lots for this particular use. Mr. Cape reported he has worked with staff and believes there are issues with the application and merits that it be held.

F. AGENDA ITEMS

1. FOOD TRUCK RESOLUTION. A resolution temporarily suspending restrictions on food trucks in Brian Head.

Bret Howser, Town Manager, presented a draft resolution that would temporarily suspend some of the provisions in the Business License Code regulating food trucks (see attached). Bret explained that during the last Council meeting, the Council directed staff to research a potential resolution that would suspend certain provisions of the Licensing Code regulating mobile food vendors due to the Covid-19 pandemic and the restrictions on gatherings for the 2020-2021 ski season. The existing code requires that mobile vendors must move 250 feet every two hours, must locate at an active construction site unless it is a special event.

Bret reported in reviewing the mobile vendor provision in the code, staff will be revising the mobile vendor provision in the Licensing Code due to changes in State law regulating food trucks. Bret reported he is working with the Utah League of Cities and Towns and the Utah City Manager's Association who has an appointed representative with the State Legislature. They will be working on the issue of food trucks during the upcoming legislative session. Staff has also contacted the Town Attorney to review any changes to the code.

The Council discussed the following:

1. The Town has information on one food truck that would be located in Brian Head and is looking to operate for the upcoming ski season.
2. Some of the issues the Council is facing is if a food truck is licensed elsewhere, they are not required to license with Brian Head and the sales taxes from the sales are allocated to where they have their pantry and typically where they are licensed.
3. The Town cannot require a food truck to provide written permission from the property owner. Bret suggested that the Town contact the property owner to have them licensed as a special event, which they would then be required to obtain a temporary special event sales tax ID number. This would allow the sales from the food to be allocated to Brian Head instead.
4. Brian Head Resort has reported they would be willing to allow a food truck on their property due to the pandemic restrictions. Burke Wilkerson, Brian Head Resort, stated he would like to see the taxes come to Brian Head instead of another city.
5. The staff is proposing to suspend the existing mobile vendor code on the requirement of having to locate at a construction site and suspend the two-hour time/distance requirement.
6. Council Member Freeberg suggested that if a property owner is going to allow a food truck on their property, then they should notify the Town and obtain a permit along with a site map requiring that snow be cleared and showing the parking. Bret explained the parking is identified in the Land Management Code (LMC) but is silent on mobile vendors as a use. Since they would not be submitting a land use application, but the Town could decide to make this a change in the future.
7. Mayor Calloway commented he would like to see a provision added to the resolution requiring the mobile food vendor to provide reasonable access and parking.

8. Council Member Mulder inquired as to what the Town can do to help with overflow parking with the mobile food trucks. Bret responded that the Town could identify that overflow parking is not allowed on privately zoned property without a conditional use permit for a home occupation.
9. Burke reported in his conversations with the food truck vendor who is looking to locate in Brian Head, he may be using the Chair #1 parking lot for a location unless he doesn't receive the amount of traffic he is wanting, then he would work with the Resort on possibly locating at Chair #2 or Navajo Lodge parking area as an option.
10. Burke reported the Southwest Health Department requires a commissary for a connection with a restaurant for cleaning facilities and this could limit the number of food trucks in Town.
11. Bret reported he will insert the following language before the final sentence in the resolution: "Mobile Food Vendors will be required to provide reasonable parking and access for their customers".

Motion: Council Member Mulder moved to adopt Resolution No. 498, a resolution suspending a portion of the Brian Head Town Licensing Code, regulating mobile food vendors as presented with the added language of "Mobile Food Vendors will be required to provide reasonable parking and access for their customers". Council Member Freeberg seconded the motion.

Council Member Marshall inquired on how the Town will address noise from generators that are used by the mobile food truck along with the water and waste from the food truck. Bret responded the Town has a noise code and the Health Department has requirements for water and waste for the food truck.

Action: **Motion carried: 4-0-0 (summary: Yes = 4, Recused = 1 Vote: Yes:** Council Member Mulder, Council Member Freeberg, Council Member Kelly, Mayor Calloway. Recused: Council Member Marshall).

2. CORONAVIRUS RELIEF FUND EXPENDITURE DISCUSSION. A discussion on expenditures related to the Coronavirus Relief Fund.

Shane Williamson, Town Treasurer, reported the State received funds through the Coronavirus Relief Cares Act and the Town was awarded $8,334 which was to be distributed in three tranches. The first tranche was $2,700 that was distributed in August 2020, the second tranche was distributed in October 2020. The State held back funds from cities and pooled them together and redistributed them to the resort towns. With the redistribution, the Town received an additional $78,988 last week. As part of the agreement, the Town is required to account for the purchases in a transparency report and a plan needs to be submitted by the end of November 2020 and the funds will need to be spent by December 30, 2020. Shane explained he has submitted an analysis on how to spend the funds in his report to the Council. Shane reported the Town also received a donation from Brian Head Resort and the Coleman Foundation.

Shane reported the State has restrictions on things for the health, emergency, or assistance with the local economy that was either budgeted or non-budgeted items, but have since changed the language to be assumed that all police salaries can be used towards the relief funds and reporting. The Town currently has some expenditures such as the Zoom Meeting subscriptions, Meeting Owl, sanitizer, message board rentals and have spent under $4,000. Shane explained the Town has approximately $81,194 to spend by December 30, 2020.

The Council discussed the following:

1. Staff proposed the following as part of the expenditures: 1. Purchase of a message board for about $15,000 to $20,000. 2. Additional shuttles for the upcoming winter season for social distancing without reducing the capacity with an anticipated cost of $20,000.
2. Staff has not yet included any of the police salaries. Bret explained discussions have centered around using all of the remaining amounts identify it on the police salaries but would like to know if the Council has any expenditures they would like to see.
3. Bret reported he is waiting for an amount for the additional shuttles and will inform the Council once he receives that information. This would be used towards the relief funds.
4. Mayor Calloway suggested staff contact Parowan City on the cost of their sign and consider installing a permanent sign in front of the Town Hall. Bret reported the cost for the Parowan City marquee is approximately $16,000 to $17,000.
5. Bret reported the Town could purchase the reader boards and the additional shuttle services and then identify the remaining amount towards police salaries and then do a budget adjustment and reassign the funds.
6. Council Member Freeberg suggested purchasing masks and sanitizer for the guests using the shuttle.
7. Council Member Kelly suggested using some of the funds to improve the Zoom meetings such as additional microphones and someone monitoring the meetings for those listening to the meetings over Zoom.
8. Bret commented the Town could purchase a permanent marquee in front of the Town Hall and purchase a mobile reader board that can be strategically placed in town.
9. Shane explained the budget adjustment would look the same with an adjustment to the State/Federal grant line and the salaries are already budgeted.

Consensus of the Council: Proceed with the purchase of a reader board and additional shuttle services and police salaries as proposed.

3. DISCUSSION ON PROPOSED AMENDMENTS TO TITLE 8-3-3, WORKING WITHIN THE TOWN'S RIGHTS-OF-WAY EXEMPTION. Proposed amendments to the Town Code allowing an exemption to work within the Town's rights-of-way after October 15th.

Aldo Biasi, Public Works Director, presented draft language for an amendment to the Town Code, Title 8.3.3, Working within the Town's Rights-Of-Way Exemption (see attached). Aldo explained he has made the changes Council requested in a previous meeting. The proposed language allows for extending the construction season if authorized by the Public Works Director. Aldo reported he replaced the "road" and with "right-of-way".

The Council discussed the following:

1. Any permits may be revoked within a 24-hour notice so if the weather is changing early than planned, the Town can shut down the work if necessary, to protect the Town's infrastructure.
2. Bret explained if a waterline is within the right-of-way and the property line is within the right-of-way, the property owner/contractor would need permission to excavate after October 15th.
3. Mayor Calloway expressed his concern about taking control of someone's private property as soon as the winter season is declared. Aldo responded that if there is a chance that a utility line would be affected, the Town has a say in the matter.
4. Council Member Freeberg commented that the Town should have easements for their waterlines and shouldn't be an issue of controlling someone else's property. Aldo explained that there is not always an easement identified and this language would allow the Town to protect its infrastructure.
5. Bret explained the current language identifies the word "road" which could have been interpreted as the pavement and the Town's utility lines may not always be located in the road which is why the change from "road" to "right-of-way", which gives the Town the control to protect its infrastructure.

6. Council Member Freeberg commented that if there is not an easement, then it could become a legal issue.

Consensus of the Council: Staff will present an ordinance at the next Council meeting for adoption.

4. GRADING PERMIT DISCUSSION. A discussion on a provision requiring a building permit before issuance of a grading permit.

Bret Howser, Town Manager, gave a brief history of the language for grading permits in which developers were getting a grading permit to clear the area for a pad or driveways, but then not completing the project and leaving a scar on the land which was negatively impacting the community. The Town identified a provision in the grading permit requirements that would require the posting of a $5,000 bond first and then a requirement to pull a building permit. With this change, the Town received several people posting the bond, but not completing their projects. The $5,000 bond could be used to revegetate the area if needed.

Council Member Freeberg inquired if a time limitation was identified in the language. Bret responded that the bond would be in place until such a time a building permit was pulled, but no specific time frame was identified, but it could be identified in an amendment to the grading permit process.

Bret requested the Council consider removing the provision of allowing someone to post a bond to begin grading without pulling a building permit and recommended that a building permit must be issued before any grading can take place. This could reduce the issue of people grading their property without ever pulling a building permit.

The Council discussed the following:

1. Bret explained that he has been told that it takes a minimum of two years to build a home in which the first year they need to grade for a pad and driveway and throughout the winter season they get their engineering drawings submitted and the second year they would be ready to pull a building permit. Bret explained that they could work on their engineering drawings first before any grading taking place and when all required documents are submitted, a building permit is issued, and then grading can begin.
2. The Planning Commission will be reviewing this item during their next Commission meeting and will be forwarding their recommendation to the Council.
3. Mayor Calloway commented that he understands the difficulty of the issue where the construction season is short and for a builder to post a bond to begin grading would be a benefit, but also sees where people who begin the grading process and decide not to follow through with a building permit. Mayor Calloway commented that he understands the problems staff is dealing with but believes it could be better handled if better guidelines were established.
4. Council Member Freeberg commented that it could take longer than two years due to waiting for engineering drawings. If a property owner clears their lot of the dead trees for fire mitigation, it would improve the lot significantly, and that a grading permit would not be required.
5. Mayor Calloway suggested that the Council consider the original intent for single-family residential zones and if the provision could be limited to single-family residential zones that are one-half acre or less. Bret responded the Council could identify a provision for use and not necessarily the zone.
6. Council Member Mulder commented she believes that there needs to be protection for the single-family residential zones from clearing their lot and then may or may not pull a building permit.

7. Council Member Kelly commented that he understands the struggles of building and believes that a provision could be identified to allow for an extension of time to develop the land.
8. Subdivisions and similar planned unit developments have a completion date of one year and must post a bond in the amount of 125% of the estimated costs of improvements.
9. Council Member Marshall commented she thinks the Town already has code in place that addresses the issues, such as clearing property for someone to camp or to clear cut their property. Council Member Marshall commented that she does not know if a requirement for pulling a building permit would deter people from grading or clear-cutting their property.
10. Council Member Marshall reported that in speaking with their clients that have purchased property, they are requesting to grade their property this year and over the winter season work with their engineers on drawings so they can begin to build next year. Council Member Marshall stated she does not believe that anyone should be able to complete any grading for a pad or driveway before a building permit is pulled.
11. Bret reported the code requires a minimum undisturbed area for single-family residential zones and a building can only be built on 40% of their property and with the smaller lots, the dirt is moved onto other areas with the homeowner/contractor believing that they are not disturbing the land. Bret explained he believes the Code needs to be clear that moving dirt onto non-distributed areas is considered disturbing the area since it could be another twenty years before the land is revegetated.
12. Bret inquired if the Council were interested in modifying the language that would allow a property owner to dispose of the dirt, such as establishing a driveway, they would need to identify where the dirt is to be disposed of where it wouldn't have a twenty-year impact on the vegetation.
13. Mr. Don Cape inquired if the Council could require a slit fence. Bret responded that the Council could consider a requirement for a silt fence on-site if they choose to.
14. Mayor Calloway commented that there are additional difficulties on smaller lots with moving the dirt and if they had to truck off the dirt and then bring it back for the foundation, they could run into issues on where they could stockpile the dirt temporarily. The equipment also takes up room and disturbs the ground in moving around the property.
15. Council Member Kelly commented that in the staff report, it was noted that staff is having difficulties with keeping up with the increased volume of work. Council Member Kelly commented that the Council needs to ensure staff has the resources available to complete their workload. Mayor Calloway commented that there is not enough staff's time available to get out in the field to inspect these projects. Bret explained that it is currently on an honor system right now since we do not have the personnel to fully monitor the building process in the field.
16. Council Member Kelly commented he believes that a building permit must be in place before a grading permit being issued. Those who are trying to build but not as quickly, that the Town help accommodates them. Council Member Freeberg agreed.
17. Mr. Don Cape commented that there is technology available today that gives the homeowner an advantage. And when a building permit is pulled, they have the consultation from staff on the process to guide them.
18. Bret explained that this will be reviewed by the Council again at their next Council meeting and the policy question is how serious the Council on leaving scars on the land while trying to build.

The Council will address this item at the next Council meeting for a Land Management Code amendment being proposed along with the recommendation from the Planning Commission.

5. POTENTIAL FUTURE AGENDA ITEMS. The Council will discuss potential items for future agendas.

Bret reported on the following items for the December 8, 2020, Town Council meeting:

1. Public Hearing for a Budget Amendment.
2. 2021 Council Meeting Schedule
3. Winter ordinance exemption.
4. Request for proposal for the public art piece.

Bret reported the annual Town Holiday party was canceled with the Plan B Budget that was proposed in April 2020.

The November 24th and December 22nd Town Council meetings are canceled due to the holidays.

G. ADJOURNMENT

Motion: Council Member Marshall moved to adjourn the regular meeting of the Brian Head Town Council for November 10, 2020. Council Member Kelly seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member Freeberg, Council Member Marshall, Council Member Mulder, Council Member Kelly, Mayor Calloway).

The regular meeting of the Brian Head Town Council was adjourned at 3:07 pm for November 10, 2020.

December 8, 2020
Date Approved

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Nancy Leigh, Town Clerk